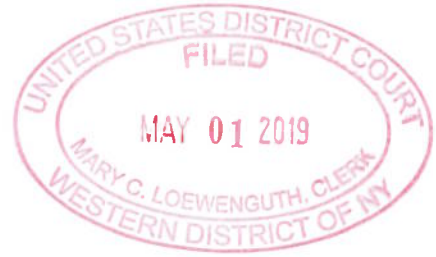


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



ROBERT W. JOHNSON,

Plaintiff,

v.

THE BUFFALO POLICE
DEPARTMENT, OFFICER POBLOCKI,
and THE STATE OF NEW YORK,

Defendants.

ORDER

19-CV-00514 EAW

INTRODUCTION

Pro se plaintiff Robert W. Johnson (“Plaintiff”) commenced the instant action on April 1, 2019, alleging violations of his civil rights by Defendants. (Dkt. 1).¹ Plaintiff neither paid the Court’s filing fee nor submitted a motion to proceed *in forma pauperis*. Accordingly, the Clerk of Court shall administratively terminate this action. If Plaintiff wishes to reopen this case, he must notify the Court in writing **within 30 days of the date of this order** and must include either (1) a properly supported motion to proceed *in forma pauperis*, or (2) the \$350.00 filing fee and the \$50.00 administrative fee (\$400.00 total).

¹ The action was originally commenced in the United States District Court for the Southern District of New York. On April 5, 2019, that court entered an order transferring the matter to the instant Court. (Dkt. 1). The transfer order noted that Plaintiff had neither sought leave to proceed *in forma pauperis* nor paid the required filing fee, but left the resolution of that issue to this Court. (*Id.* at 3).

DISCUSSION

A party commencing a civil action in this Court ordinarily must pay a \$350.00 filing fee as well as a \$50.00 administrative fee.² See 28 U.S.C. § 1914; Judicial Conference Schedule of Fees, District Court Miscellaneous Fee Schedule;³ Western District of New York, District Court Schedule of Fees.⁴ If a party is indigent, instead of paying the required fee, he may seek permission to proceed *in forma pauperis* under 28 U.S.C. § 1915.

Under 28 U.S.C. § 1915(a)(1), an individual seeking to bring a civil action *in forma pauperis* must submit an affidavit or affirmation detailing his assets and liabilities and swearing under oath that he is unable to pay the \$350.00 filing fee. A motion to proceed *in forma pauperis* should be supported by such an affidavit or affirmation filed at the same time as the complaint. The Court has made available a form motion to proceed *in forma pauperis* with supporting affirmation⁵ that is designed to help *pro se* litigants (such as Plaintiff) comply with 28 U.S.C. § 1915(a)(1).

² Effective May 1, 2013, the Judicial Conference of the United States added an administrative fee of \$50.00 to the cost of filing a civil lawsuit in district court. See September 2012 Report of the Proceedings of the Judicial Conference of the United States, available at <http://www.uscourts.gov/about-federal-courts/reports-proceedings-judicial-conference-us>. This additional administrative fee does not apply to prisoners who are granted permission to proceed *in forma pauperis*. See generally *id.*

³ Available at <http://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule>.

⁴ Available at <http://www.nywd.uscourts.gov/fee-schedule>.

⁵ The court has ordered that a form motion to proceed *in forma pauperis* with supporting affirmation be mailed to the plaintiff. The form also is available at <http://www.nywd.uscourts.gov/pro-se-forms>.

Here, Plaintiff did not pay the \$350.00 filing fee and the \$50.00 administrative fee, nor did he submit a motion to proceed *in forma pauperis* with an affidavit swearing that he is unable to pay the filing fee.

ORDER


IT IS HEREBY ORDERED that the Clerk of Court shall administratively terminate this action; and it is further

ORDERED that the Clerk of Court is directed to send to Plaintiff a form motion to proceed *in forma pauperis* with supporting affirmation and authorization form; and it is further

ORDERED that if Plaintiff wishes to reopen this action, he shall so notify this Court, in writing, no later than **30 days from the date of this order**. This writing must include either (1) a properly supported motion to proceed *in forma pauperis* or (2) the \$350.00 filing fee and the \$50.00 administrative fee (\$400.00 total); and it is further

ORDERED that upon Plaintiff's submission of either (1) a motion to proceed *in forma pauperis* or (2) the \$350.00 filing fee and the \$50.00 administrative fee (\$400.00 total), the Clerk of Court shall reopen this case.

SO ORDERED.


ELIZABETH A. WOLFORD
United States District Judge

Dated: April 30, 2019
Rochester, New York